

Published and Copyright (c) 1999 - 2002
All Rights Reserved

Atari Online News, Etc.
A-ONE Online Magazine
Dana P. Jacobson, Publisher/Managing Editor
Joseph Mirando, Managing Editor
Rob Mahlert, Associate Editor

Atari Online News, Etc. Staff

Dana P. Jacobson -- Editor
Joe Mirando -- "People Are Talking"
Michael Burkley -- "Unabashed Atariophile"
Albert Dayes -- "CC: Classic Chips"
Rob Mahlert -- Web site
Thomas J. Andrews -- "Keeper of the Flame"

With Contributions by:

Kevin Savetz

To subscribe to A-ONE, change e-mail addresses, or unsubscribe,
log on to our website at: www.atarinews.org
and click on "Subscriptions".
OR subscribe to A-ONE by sending a message to: dpj@atarinews.org
and your address will be added to the distribution list.
To unsubscribe from A-ONE, send the following: Unsubscribe A-ONE
Please make sure that you include the same address that you used to
subscribe from.

To download A-ONE, set your browser bookmarks to one of the
following sites:

<http://people.delphiforums.com/dpj/a-one.htm>
<http://www.icwhen.com/aone/>
<http://almag.atari.org>
Now available:
<http://www.atarinews.org>

Visit the Atari Advantage Forum on Delphi!
<http://forums.delphiforums.com/m/main.asp?sigdir=atari>

=~==~==

~ Russian Case Is A Go! ~ Judge Bruises Microsoft ~ States Screw Up!
~ No ID, No Video Game?! ~ iChat To Work With AOL ~ Red Hat 7.3 Out!
~ Privacy Bill Unveiled! ~ States Cancel Win Demo! ~ MS Case Nears End?

-* New Playstation In The Works *-
-* Two Classic Atari Books On The Web! *-
-* Rejected "Virtual" Child Porn Law Revisited *-

==~==~==

->From the Editor's Keyboard
"~~~~~"

"Saying it like it is!"

This was definitely the week from hell! It wasn't all bad, but enough to rank up there near the top. The good news was that we closed the deal to re-finance our house, at a lower rate and a good sum of cash to make some improvements. The check was supposed to arrive yesterday, but since we missed being here when FedEx arrived, we'll have to wait. Hopefully we'll have the check today. We also finally had our porch roof replaced! One of my neighbors did the work, for an outrageously great price. It turned out to be a bigger job than we had figured (more layers of old shingles than we thought) and we had to strip the roof bare before we could begin. But, the work is done and the clean-up is all that remains.

I got my plants in last weekend, so that was a good thing. I just have to cut down some bushes in order to plant a few I picked up a couple of weeks ago. That's not a big issue.

Life at work has been a nightmare recently. No, it's not the work or those types of pressures. I often feel like I'm more of an adult babysitter than a manager! Never have I seen adults behave like children! I've had people not bother to call in and don't show (they're now all gone!). I've had people who just can't work with other people. And I have at least one person who just can't seem to get acclimated to the department, and reacts in a fashion that is totally inappropriate. I'm hoping that at least one person will be outta there soon - not by choice, either! It's been a taxing couple of weeks! I think it's time for another "mental health" vacation already - the last one just didn't do the trick!

It's looking like it might be a nice weekend coming up, so perhaps I can get the lawn cut and fertilized. Maybe dig up those bushes, or pick up some more plants to fill some gaps in the gardens. We'll see. I'm looking forward to a relaxing weekend mixed with a little yard work. A few cold beers should help the process!

Make sure you don't forget your mother this weekend. Be grateful if you're fortunate to have one still around! At the least, give her a call or drop by to say hello - she'll appreciate it.

Until next time...

==~==~==

Two Classic Atari Books On the Web

The team at [atariarchives.org](http://www.atariarchives.org) is proud to announce that two more classic Atari books are now available at <http://www.atariarchives.org> -- bringing the number of books at the site to seven.

The two books are:

Atari Basic - A Self-Teaching Guide, by Bob Albrecht, LeRoy Finkel, and Jerald R. Brow, published 1979. This 330-plus page book is an introduction to Atari BASIC.

<http://www.atariarchives.org/basic/>

...and...

Computer Animation Primer, by David Fox and Mitchell Waite, published 1979. This 500-plus page book is a great general introduction to computer animation, and includes downloadable BASIC and machine language programs for doing animation on Atari 8-bit computers.

<http://www.atariarchives.org/cap/>

Highlights include a section on The Making of TRON
<http://www.atariarchives.org/cap/showpage.php?page=125>) and a 16-page section featuring color animation stills.
<http://www.atariarchives.org/cap/thumbs.php?page=color1>)

Thanks to the authors for allowing us to share their work.

--Kevin Savetz

=~::~~::~=

PEOPLE ARE TALKING
compiled by Joe Mirando
joe@atarinews.org

Hidi ho friends and neighbors. You won't find much that's spiritually or emotionally uplifting in my comments this week, I'm afraid.

I'm in the middle of a really bad migraine at the moment and, for those of you who have never had a migraine I can tell you that it's not something to look forward to.

I've never had any luck in trying to explain to anyone exactly what a migraine feels like until about a week ago. I didn't notice what it was selling, but there's a commercial on television that finally shows a little bit of what a migraine is like. I still can't really describe it, and it doesn't convey the full feeling of a migraine, but it's close enough to give you an idea of why it's so much more unpleasant than a 'regular' headache. In a landmark move, I had to leave work

early today. When I take sick time, they KNOW that it's necessary.

One of my primary responsibilities is spectral analysis of alloys. It's not a hard job, but it requires a decent amount of math. Normally this isn't a problem, but when I have a migraine the numbers just seem to swim before my eyes and I can't make sense of any of it. It feels almost like everyone in the world talking to you at the same time and expecting your undivided attention while there's a really annoying sound in the background and a really bright strobe light in your face.

Sounds like fun, don't it? Well, enough of that. Let's get to the news, hints, tips, and info from the UseNet.

From the comp.sys.atari.st NewsGroup
=====

Jean-Luc Ceccoli posts this about replacing the clock battery in a TT or MegaSTE:

"For all those wondering what to replace TT's and MegaSTe's battery : just open the battery's case and replace the battery in it with a 3.6 V lithium one. Just two wires to solder, works great."

Kenneth Medin tells Jean-Luc:

"My problem is that I have got a TT of the new type (I think), but with the battery missing. So I can't simply replace it.

The obvious solution is of course to first try with three AA cells and if that does not work use four.

The TT clock seems to draw a higher current compared to Mega ST's. My 1987 Mega2 still has the two original (non alkaline) AA cells in and at least a year ago it still kept the time!"

Grzegorz Pawlik adds:

"Maybe this is crazy, but I have the battery case completely removed, and four *standard AA-size* batteries connected externally at the back of my TT.... And it works! ;-) That gives 6 V, however..."

Jo Even Skarstein tells Grzegorz:

"I also use four AA-batteries, but I have them inside the case. It works fine, and has done so for two years."

Jim Logan jumps in and adds:

"Could I issue my usual caution that early TTs used a different battery voltage - I regret to say that it is so long since I changed mine that I forget what the voltage was."

Jean-Luc tells Jim:

"Well, you first could try using 3x 1.2V CdNi elements : it these keep the clock saved, just use a 3.6V Li, as I previously described. If the 3x1.2V cells are too weak, just find a 6V Li battery. It would, of course, be possible to use ordinary 1.5V alkaline batteries, but you then would have to replace them more frequently (every 2 years, I think) than a Li battery (5 years, at least). One last thing : a 6V Li battery is about 6 euros, 4x1.5V alk. are about 4.5 euros."

Hallvard Tangeraas asks about one of the more familiar word processors for the ST:

"I'm working on a file-archive and links to mentioned software in my TOS 2.06 user-guide, but I'm a little confused when it comes to the "1st word" and "1st word plus" word processors.

I know that "1st Word plus" was a commercial application, but the confusion revolves around the original "1st word". As far as I remember Atari released this freely in the beginning, but later decided to take it back. I don't know what happened after that.

Did it turn into commercial software? Did they just remove it completely from the market?

What's the *current* status of this program? Would I be breaking any laws if I was to make it freely available from one of my web sites?"

Steve Stupple tells Hallvard:

"As far as I know the original 'First Word' was released in the public domain, 'First Word Plus' was released on a ST review cover disk but NOT the latest version though."

Simon Osborne adds:

"I'm pretty sure most UK PD Libraries stocked 1st Word, so I guess it's PD. I'm pretty sure LAPD did."

Steve tells Simon:

"Yup the former LAPD did have it when i took the library over, and that was after the Atari funny bizness (when they listed their non pd stuff, 'the neochrome affair' etc).

I've still got it listed in my pd library. It's one of those programs that if you liked, you were more likely in buying the latest version with all the trimmings (dictionary etc.)."

Dave Wade asks about Networking:

"I am looking at either buying, or possibly building as there seems some delay with supply, the Ethernet Interface described at hardware.atari.org (or at least it is when the site is up it appears to be down today).

This is said to work with STinG, Mintnet or MagicNet, and as I am a novice in this area I was wondering which might be the best to try as a novice user. My main aim is to allow quicker transfer of files between the ST and my PC's. A second aim is to spend as little cash as possible. And thirdly whilst I can order a train ticket or hotel room in German anything remotely technical is beyond me so it should have good English documentation and support."

Lyndon Amsdon tells Dave:

"Yes, this is true, my website is down, I'm trying really hard to get it back up. At the moment, use
<http://www.madasafish.com/~bindon/index.htm...>

Damn, that URL isn't working either. I'll have to try and set something up with another provider."

Derryck Croker tells Dave:

"Check you can get all the hardware needed for this before going further, if this uses the Genius pocket adaptor they're not easy to find it seems!

I like Magxnet because it's still being developed, transferring files is quite straightforward using Vassilis' port of the Samba client, but in return you will have to do some mysterious tinkering with config files (which you will also have to do with MiNT).

Slated for the future is integrating Samba with Bnet, which will present PC drives and printer on the Atari's desktop for true drag'n'drop integration, but at the moment file transfer is from a ttp (not too difficult), or if working from the PC end via an FTP client (or from your browser) with an FTP server installed on the Atari.

STinG also works, and if you've already got this installed as your dial-up might be worth considering. You'd have to use FTP to transfer files, so I assume an FTP server running on each machine in the network would be needed."

Hallvard now asks about making a boot floppy:

"It's been a while, so I might have forgotten something fairly obvious here...

I want to make a boot floppy disk to use in emergency situations, or situations where I need a very basic setup for software that's very particular about things.

I've created a floppy disk with AHDI.PRG in the /AUTO/ folder. The idea is to have this driver mount the hard disk drive of my Mega STe instead of using the hard disk's own driver (which is HDdriver).

(I'm doing some work with a "Discovery" cartridge and I've been recommended to use AHDI as newer hard disk drivers can prove to cause problems with it).

Now, here comes the problem...

For some reason, when the ACSI ID shows up during the boot sequence and after the ACCessories/Auto programs from the floppy disk have finished loading, stuff from the Mega STe hard disk is loaded!
When it's done I can see that the desktop, icons and even CPX modules have been loaded. Why?

I don't want anything loading from the hard disk, and I really can't understand why this is happening.

I've done this sort of thing before, and remember when saving the desktop, it was saved to the *floppy*. What gives?

Oh... just to avoid any further confusion I re-installed AHDI on the hard disk as well, but this didn't change anything."

Edward Baiz tells Hallvard:

"I assume you want just to access your hard drive if something happens to your auto folder or any other programs on your boot partition. Try this. Boot up the computer with the hard drive turned off. Then turn on your hard drive and then run AHDI.PRG.

I really would get HDDriver."

Hallvard tells Edward:

"I can't do that with my Mega STe as the drive is built into the machine, so there's no separate power switch available.

I do have HDdriver! But I'm working on backing up some protected software, using a "Discovery" cartridge, and was recommended to boot with a minimal setup which included a simpler hard disk driver such as AHDI to avoid any complications. This is why I'm making this boot disk."

Edward tells Hallvard:

"ON my Hades I can boot off of the floppy if I hold down the "A" button. Maybe that would work. Also, I try holding down the ctrl-shift buttons or the ctrl-shift-alt buttons. That may do it."

Hallvard replies:

"Yup, this is what I use when using a boot-disk that has HDdriver on it (inside its AUTO folder). This makes makes the computer boot from drive A (floppy disk drive) instead of the usual drive C (hard disk).

If the boot-floppy has AHDI however I need to press and hold down <ALT> while booting.

Tried all of this, but data from the hard disk is still read into the machine as soon as the hard disk driver has been loaded. I find this very strange. There must be a way I can bypass this and *only* read whatever is on the floppy disk.

For some unknown reason, whenever the hard disk driver is loaded from the

boot floppy, the hard disk takes over, loading the desktop (NEWDESK.INF) file and AAccessories (but apparently not the AUTO programs)."

Lonny Pursell tells Hallvard:

"You have to bypass the driver on the HD.
Right when you see the nice Atari logo appear, hold down the Alt key
down. Keep the alt key down until you see the floppy led, then let go.
The floppy should take off and everything on the HD should be ignored."

Well folks, that's it for this week. Hopefully I'll be in better shape next week's column. Tune in again next week, same time, same station, and be ready to listen to what they are saying when...

PEOPLE ARE TALKING

$$= \sim = \sim = \sim =$$

```
->In This Week's Gaming Section - Playstation 2 Hits 30 Million!
    " " " " " " " " " " " " " " Next Generation Playstation Planned!
                                     Xbox Co-creators Form New Venture!
                                     And much more!
```

$$= \sim = \sim = \sim =$$

->A-ONE's Game Console Industry News - The Latest Gaming News!
 ~~~~~

## Sony Working on New PlayStation

Sony Corp. has begun developing the next generation of its PlayStation video game for sale by 2005, when it plans to roll out a console that would allow gamers to play opponents over high-speed Internet networks, a news report said Sunday.

The new game console will run on a computer chip expected to be around 200 times faster than those currently installed in personal computers and game units, Kyodo News agency said. It quoted Sony sources it did not identify.

Developing the chip will cost the Japanese electronics and entertainment giant about \$400 million, Kyodo said.

Sony has set its sights on online gaming as the new frontier and is trying to take control of the market before rivals Microsoft Corp. and Nintendo Co. come up with their own versions. Microsoft makes the Xbox, and Nintendo has GameCube.



Microsoft and Sony both have said they will sell adapters and software for games that can be played over the Internet later this year.

The new PlayStation would work over super-fast fiber-optics connections and would be Sony's first console to run games without a digital video disc, Kyodo said.

Sony also is considering offering the new chip to other companies for use in televisions and electronics equipment, Kyodo said.

Worldwide, Sony has shipped more than 28 million PlayStation2 machines. Nintendo says 2.7 million GameCube consoles have been shipped worldwide, about half of those in Japan. Microsoft expects to ship 3.5 million to 4 million Xbox consoles worldwide by the end of June.

### Game Console Price Cuts Likely in May

Price cuts for two video game consoles, the Xbox and the PlayStation 2, are likely to kick in as soon as this month, due to slowing retail sales ahead of the summer months, an analyst said on Monday.

In a research note, Gerard Klauer Mattison analyst Edward Williams said he believes price cuts will be announced at the industry's annual Electronic Entertainment Expo (E3) because a drop in sales has retailers worried ahead of the summer, usually the industry's weakest season.

Williams said he believes Microsoft Corp., fighting to gain a share in the competitive game machine market, will kick off the cuts, bringing the Xbox down to \$199 from \$299 at a news conference scheduled for May 20.

Sony Corp., the market leader, will likely follow, also cutting the PS2 price to \$199 from \$299, he said.

The PS2 was launched in November 2000. The Xbox came out in November 2001.

"Given a need to increase its installed base and a lack of exclusive key titles to help do so, we expect Microsoft could use this opportunity to pre-empt Sony and take a leadership position in dropping the price of Xbox," he said.

The Xbox, after selling nearly 1.5 million units in the last six weeks of 2001, sold between 300,000 and 400,000 units in the first quarter of this year, according to various analysts' estimates, and a consensus has developed in recent weeks that the price of the Xbox will be cut this year.

Rumors have repeatedly cropped up since last summer that a PS2 price cut was imminent, and analysts are still generally divided as to whether Sony might cut the price at E3, or in September, at the start of the strong fall and winter season.

"However, the recent slowdown in hardware unit momentum, coupled with the competitive threat of Xbox at a lower price, makes a price cut on the PS2 more likely, in our view," Williams said.

Even so, a price cut was not entirely necessary for Sony, he said.

"Given this enormous market share -- and apparent demand for the product -- the company does not necessarily need to cut the price of the hardware, especially when you consider that the company has experienced weakness in some of its other businesses -- making the profit derived from PlayStation that much more important," he said.

Williams also said he expects the price of Sony's older PlayStation One console to be cut to \$79 from \$99.

As for Nintendo Co. Ltd.'s GameCube, which came out three days after the Xbox at a price of \$199, Williams said a price cut at E3 was unlikely, though a cut to \$149 is possible this fall as Nintendo releases a number of anticipated game titles.

### PlayStation 2 Hits 30 Million Units Globally

The video game arm of Japanese media and electronics giant Sony Corp. said on Thursday that its PlayStation 2 video game console has reached a global installed base of 30 million units.

The majority of those units -- 11.3 million in total -- are in North America, followed by 9.9 million units in Japan and the rest of Asia and 8.8 million units in Europe.

The company said that total base includes 4 million units sold since February. Industry executives expect the U.S. base alone to reach as many as 15 million units by year's-end.

The PS2 competes in all three markets against the Xbox from Microsoft Corp. and the GameCube from Nintendo Co. Ltd. . Both consoles came out late last year, while the PS2 made its debut in the fall of 2000.

Microsoft has targeted total worldwide shipments of 3.5 million to 4 million units by the end of its fiscal year in June. Nintendo shipped about 4 million units worldwide by the end of its fiscal year in March.

The company also said it would announce "some new business developments" for hardware, software and online gaming at the game industry's Electronic Entertainment Expo, which starts on May 20 in Los Angeles.

Industry analysts widely expect that Sony may cut the U.S. price of the PS2 to \$199 from \$299 at the show, particularly if Microsoft makes a similar price cut.

Sony has also said it will release an adapter in August for PS2 to enable both dial-up and high-speed Internet access and online gaming through the console.

### 'Spidey' Soars in New Activision Game

"Spider-Man" the movie is already a blockbuster, and "Spider-Man" the action-adventure game from Activision, offers more than enough fun to snare players in its web.

What other game enables you to crawl along a wall or across the ceiling and drop down on a web to spy on your enemies? Few other games allow the hero to fly across a room so rapidly, as Spider-Man zips from one end to the other, driving the bad guys nuts.

Suddenly, games that require players to do simple old-fashioned walking or running seem quaint by comparison.

"Spider-Man" the game includes some of the movie's plot elements, but it is also very different in that the origin of "Spider-Man" is glossed over. Players pick up the tale as Peter Parker, in a crude Spidey costume, is trying to find the man who killed his beloved Uncle Ben.

Instead of the movie's night-time car chase, players must swing from building to building in broad daylight and, eventually, enter a warehouse where there are several thugs to be dispatched. Only then do you get a shot at the killer.

The Green Goblin, Spidey's film nemesis, is here (Willem Dafoe and Tobey Maguire provide the voices for the Goblin and Spider-Man). So is the night-time adventure climax at the bridge with the kidnapped Mary Jane (although without the tram car full of kids). But the game features other enemies -- Shocker, Vulture and Scorpion -- in a variety of settings.

The tutorial is a delight, thanks to the irreverent narration of Bruce Campbell, (the bookstore manager on the TV sitcom "Ellen") who munches on a ham sandwich (with too much mustard) as he offers advice on web-swinging, using the height meter to find your objectives, and performing various acrobatic fighting moves.

"Careful there, Captain Jumpy," he quips if you swing too low. It's the perfect tone for a comic book franchise that features a sometimes-hapless superhero and resonates with teenage angst.

Unfortunately, some moments in "Spider-Man" will have players scratching their heads in bewilderment.

First: When you're swinging through the city, don't try to drop to street level -- you'll simply die. No reason is given.

Second: Players will note that when Spidey is web-swinging between tall buildings, there are many times his web never really latches onto anything. (Fortunately, the film shows the physics of web-swinging a bit more realistically.)

Third: A lot of the dialogue, especially among the thugs, becomes tiresome very quickly. I really don't want to hear "Circus in town?" or "Looks like the freak wants to play" more than twice.

Finally, the game wasn't able to recognize that I had already visited the tutorial.

"You'd know this if you played the basic tutorial," Campbell scolded me when I started the game. "But I guess you're just COOLER than the rest of us."

The game itself, however, is so cool that most players will be happy to overlook any flaws, inconsistencies or gaps in logic. I only know that, once I got started, I just wanted to keep on swinging.

"Spider-Man" is available on several platforms, including Windows (\$30), GameBoy Advance (\$40), and GameCube, PlayStation 2 and Xbox (\$50). The Xbox version has two extra levels.

BradyGames also has a \$15 strategy guide to "Spider-Man" that is beautifully designed, but one of the least-helpful guidebooks I've ever seen. The maps are nearly unreadable, making them all but useless, and all the cheat codes are missing. The cheat codes, at least, can be found at <http://www.gamewinners.com>.

## Take A Swing At Knockout Kings 2002

Boxing. The sweet science. Ali. Smokin' Joe. Sugar Ray.

And now, "Knockout Kings 2002."

Thanks to developer Black Ops, EA Sports is providing a solid boxing title to add to your Xbox sports collection.

Solid, but not spectacular. The game isn't a true sim; there are just too many things missing. But while it won't be wearing the heavyweight crown, it's certainly the middleweight champ of boxing titles.

KK2002 has a lot to like. The fighters are fast, the punches pack a wallop and slow-mo replays of knockouts are beautifully choreographed, with the boxers spinning in midair before landing with a thud. They rise a bit on the woozy side, and if you're the canvasback, there's a neat little muddled appearance to the screen as you regain your scrambled senses.

Speed is the watchword of KK2002. Punches rain down on you and your opponent, with sound effects suitable for leveling elephants. There are no clinches. There's a button dedicated to low blows, but their effect is limited and passes quickly.

The left stick is used both to move the fighter around and for defensive motions, so you need to develop a delicate touch. Slight movements of the stick have your fighter bobbing and weaving like a daisy in a gale, while jamming the stick over puts your pug in motion.

Defense is not a skill these boxers have mastered, and most fights don't go more than a round or two. There is skill in learning your opponent's style, waiting for him to throw the punch that leaves him vulnerable and then countering with just the right punch to send him flying.

There's no health meter or other method of gauging your boxer's level of exhaustion, so just keep whomping away. I liked those meters in previous boxing titles, and I missed it here.

There are several ways to play, with Career being the best, for my money. You fight a pyramid of palookas before finally reaching the top to take on real fighters like Ali or Foreman. You can also fight as those legends, or a nice selection of others, 21 in all.

Unfortunately, your promoter doesn't look a bit like Don King. A serious omission.

The game is really at its best if you can get a friend to sit down and

fight it out with you. The two-player mode is excellent, and it really doesn't matter who the fighters are. It's your skill and speed, not the fighter's name, that appears to determine the outcome.

Graphics get a B. You'll enjoy watching the great looking fighters move, bob and weave like the real thing. You'll see nice renditions of 10 noted venues, including Caesar's Palace and Wembley Arena.

Give sound a B. Effects are excellent, with explosive impacts marred by repetitive commentary.

Control gets a B. Getting the hang of defensive movement will take you a while, but once you can combine it with the easy punching controls, you'll be on your way to the title in no time.

"Knockout Kings 2002" gets a solid B. It's not a real boxing simulator, but if you enjoy the fight game, you'll be happy with this one, too.

"Knockout Kings 2002" is rated T, for ages 13 and up.

#### Disney, Konami Partner for 'Mickey' Sports Games

The game is tied 95-95, there are three seconds left -- and Mickey Mouse is at the foul line.

The video game arm of The Walt Disney Co. and Japanese game publisher Konami Co. Ltd. said on Friday they will develop and sell a series of games, tentatively called "Disney All-Star Sports," featuring Disney's beloved mouse and some of its other familiar characters.

The two companies said they will produce football, basketball, soccer, snowboarding, skateboarding and motocross games for Nintendo Co. Ltd.'s GameCube console and Game Boy Advance handheld, with the first titles available this fall.

Besides Mickey, other characters expected to appear include his paramour Minnie Mouse, the irascible Donald Duck, and floppy-eared Goofy.

The announcement is the latest in a series of moves by Disney into sports-themed video games. On Thursday, the company's ESPN sports network said it has signed a deal with game publisher Sega Corp. to contribute logos, graphics and on-air talent to Sega's line of "2k" sports games.

Disney's other major television sports franchise, ABC's "Monday Night Football," will be a part of Electronic Arts Inc.'s next "Madden NFL" game. Madden recently joined the Monday Night Football broadcast team.

#### Xbox Creators Start Video Game Development Company

Two of the creators of Microsoft's Xbox have joined a pair of video-game industry veterans to launch a venture with a familiar Hollywood feel: find raw talent, create edgy entertainment, and then sign with a major publisher to sell it to the world.

But the product for Capital Entertainment Group is not movies, but video games, and the startup is in the process of raising \$50 million in venture backing for just that purpose.

The executive team includes former Xbox chief technology officer Seamus Blackley and Kevin Bachus, who handled relations with game developers for Microsoft, the company said.

Former Sierra Online senior vice president J. Mark Hood and Dotted Line Entertainment founder Eugene Mauro are also behind the start-up, which plans to find video game developers with ideas that established publishers would normally shun.

CEG will back the development with money and production resources and find game publishers to market and distribute the resulting games, very much like an independent movie studio.

The game startup plans to make its money by taking a cut of net game sales. The company believes its investors can break-even on a game after sales of 250,000 copies. Developers will get a royalty, assuming a "breakpoint" is achieved within the first 12 months of sales, equal to anywhere between 5 percent and 15 percent of net sales.

The new venture comes at a time when the video game industry is in the first year what most expect to be a cycle of unprecedented growth. The top three U.S. game publishers recorded sales of \$714.3 million in the first quarter of this year, up 45 percent from a year earlier.

Investors, analysts and even major media companies have started to pay closer attention to big-name game publishers, as they produce stock gains and quarterly returns far better than those coming from other technology or media companies.

"I've found over the last year that it was becoming increasingly difficult to get innovative, original titles funded," Mauro told Reuters. "I put together a model that was a little bit VC (venture capital), a lot of bit of production."

Mauro serves as chief executive of the new venture and will work from his home base in Connecticut. Blackley, vice president of development, Bachus, vice president of publishing, and Hood, vice president of production, will work from Seattle. A third office will eventually be opened in Los Angeles.

Bachus left Microsoft months ago, but Blackley did not resign from the software giant until April 22, only days after it cut its Xbox sales forecast for fiscal 2002 by as much as 40 percent after poor international sales.

Blackley denied a correlation between the two events and said he was leaving simply because he wanted to get back to developing games.

While the company does not plan to have any titles available at retail until the 2003 holiday season, it already has a deal in place with Sega Corp. for its first two games, with what Mauro described as "extraordinary latitude" in what the games will be and for which platform they will be developed.

Bachus told Reuters that while the CEG team has a natural affinity for Microsoft Corp.'s Xbox, it will also back the development of games for the

PC, Sony Corp.'s PlayStation 2 and Nintendo Co. Ltd.'s GameCube.

For reasons of logistics and time commitment, he said they will largely stay away from working with developers on games for handheld platforms and mobile phones, as well as massively-multiplayer online games.

"For Seamus and me ... it was really borne out of our desire to increase the level of innovation in the industry," he said. "CEG is the industry's first independent production company."

A background sheet on CEG reads much like those for independent Hollywood producers, discussing fine details like negotiable net sales splits and completion bonding for titles in development -- essentially a form of collateral to ensure that game projects are finished.

While the group intends to work with a number of different publishers, Bachus said they agreed to the initial production deal with Sega because "Sega entertaining this opportunity is very flattering."

#### No ID, No Video Game?

A bill introduced in Congress last week would make it a federal crime to sell or rent violent video games to minors.

The Protect Children from Video Game Sex and Violence Act of 2002, introduced by Rep. Joe Baca, D-Calif., would apply to games that feature decapitation, amputation, killing of humans with lethal weapons or through hand-to-hand combat, rape, car-jackings, aggravated assault and other violent felonies. Twenty-one other representatives co-sponsored the bill, which was referred to the House Judiciary Committee (news - web sites).

That list would place a slew of popular titles out of the reach of teenagers, some of the biggest consumers of the games. The top-selling video game in 2001, according to research firm NPD Group, was "Grand Theft Auto 3," in which players steal and wreck cars, commit contract killings and carry out other crimes. It has been banned in Australia.

"When kids play video games, they assume the identity of the characters in the game, and some of these characters are murderers, thieves, rapists, drug addicts and prostitutes," Baca said in a press release. "Do you really want your kids assuming the role of a mass murderer or a car-jacker while you are away at work?"

Violators of the act would be subject to fines of up to \$1,000 for a first offense and up to \$5,000, plus 90 days in jail, for multiple offenses.

Other branches of the government are looking into the issue of minors and video games. The U.S. Federal Trade Commission is expected to release a report in June about sales and advertising to minors of games that have mature themes.

The issue hasn't gone unnoticed by video game creators. At a recent developers' conference, attendees agreed that the industry needs to do a better job of informing parents about the violent or mature content of games, although the issue of rating systems is still controversial. The Entertainment Software Rating Board assigns ratings for software titles, Web sites and online games, but participation by both game makers and

stores is voluntary. An FTC study released in December found that 78 percent of stores allowed unaccompanied minors to purchase games that were rated for mature audiences only.

And state lawmakers in Georgia recently introduced legislation that makes it a crime to sell games depicting graphic violence to minors.

Courts have had mixed opinions about such laws. Baca's bill was introduced just days after a U.S. District Court in Missouri refused to invalidate a St. Louis ordinance that required parental consent to sell violent or sexually explicit games to minors. The St. Louis law was challenged by the Interactive Digital Software Association. A similar ordinance passed in Indianapolis was later overturned by a federal appeals court.

=~::~~==

A-ONE's Headline News  
The Latest in Computer Technology News  
Compiled by: Dana P. Jacobson

EU to Levy Taxes on U.S., Non-European E-Commerce

The European Union approved on Tuesday rules that will require U.S. and other non-EU firms to levy value-added tax (VAT) on products such as computer games and software they sell on the Internet to private customers in the 15-nation bloc.

The new rules, which come into force in July 2003, may irk the United States and add to its ongoing trade row with the EU over U.S. steel imports.

The European Commission said the new regulations were designed to address what the bloc saw as a competitive disadvantage against the United States.

"I welcome the decision of the Council (of ministers) to adopt these rules on applying VAT to digital products," European Commissioner Frits Bolkestein said in a statement.

"They will remove the serious competitive handicap which EU firms currently face in comparison with non-EU suppliers of digital services both when exporting to world markets and when selling to European consumers."

Under U.S. rules designed to boost e-commerce, business is not taxed for selling digitally delivered products -- items such as children's games, music or other services that are sent electronically to a consumer's home computer.

U.S.-based companies make up a large chunk of firms selling such goods via the Internet to private customers. Thanks to the international nature of the Internet, which is not impeded by geographic boundaries, they gain easy access to the EU market.

But from July next year, U.S. and other non-EU companies will have to be registered with a tax authority in one of the 15 member states and be



required to levy that country's VAT rate on all applicable Internet transactions. The member country will then distribute the taxes collected to other countries, based on where the actual sales are made.

The VAT liability will also cover electronic services that are downloaded or consumed online, as well as subscription-based and pay-per-view radio and TV broadcasting.

EU companies, which already charge VAT on such Internet transactions conducted with the bloc's private citizens, will, however, be exempted from VAT for services they provide to non-EU residents.

The U.S., which threatened in February to take the case to the World Trade Organization (WTO), believes the rules are discriminatory and will put additional administrative pressure on U.S. companies.

"We continue to be concerned about the potential for discrimination against non-EU companies in terms of the tax rates required to be charged and the administrative and compliance burden," Tara Bradshaw, a spokeswoman for the U.S. Treasury, told Reuters from Washington on Monday.

Industry sources said the EU rules discriminate against digitally delivered products and will create a tax discrepancy in the EU itself.

Digitally delivered products, such as e-books or a digital magazine, will be taxed at full VAT. This is not always the case for the equivalent non-electronic good.

The EU's new tax rules come at a time when the bloc is locked in a trade battle with the U.S. over steel duties it has imposed on European and some other foreign companies.

EU trade officials are meeting on Tuesday in Brussels to give further consideration to plans drawn up by the European Commission to hit back at the U.S. steel duties with sanctions.

Under the Commission's plans, a first set of sanctions will come into force from June 18, hitting a range of goods including U.S. citrus fruit and some steel products, with duties of 100 percent in a move worth more than \$300 million.

#### Congressman Set to Introduce Web Privacy Bill

A U.S. lawmaker said on Monday that he would introduce this week a long-awaited consumer privacy bill covering Internet commerce.

Florida Republican Rep. Cliff Stearns said he would introduce the measure on Wednesday, nearly nine months after releasing an outline of what the bill would contain.

"Congress needs to address the American people's concern with the online and offline collection and use of personal information," Stearns said in a statement.

Stearns' House Energy and Commerce consumer-protection subcommittee held hearings on the issue last year, and the congressman said he had lined up 19 co-sponsors for his bill.

The measure would allow consumers to remove their names, addresses and other personal information from commercial customer lists that are commonly sold or rented to other companies, a Stearns staffer said.

Conflicting state privacy laws that set a higher standard would be struck down, he said, and consumers would have no right to sue if their privacy were violated. The Federal Trade Commission would be responsible for enforcement.

Companies submitting to a self-regulatory scheme such as TRUSTe or BBBOnline would enjoy protection from FTC actions, the staffer said.

Chris Hoofnagle, legislative counsel with the Electronic Privacy Information Center, said the bill would significantly erode existing privacy protections by overriding hundreds of state laws.

For example, a New York state law prohibiting utilities and credit-card firms from selling customer data would be struck down, he said. Companies could also easily evade the "opt out" requirement because of the bill's broad language.

"The bill's a bit preposterous," Hoofnagle said.

The "opt out" standard set by Stearns' bill would likely place less of a burden on U.S. businesses than the approach favored by South Carolina Democratic Sen. Ernest Hollings.

Hollings' bill would require businesses to get specific, "opt in" permission from customers before collecting sensitive information like religious or political beliefs.

A lobbyist for the U.S. Chamber of Commerce said he was nevertheless not enthusiastic about the Stearns bill.

"This is better than Hollings, but I don't know that it makes it something we can support," said Joe Rubin, the group's top congressional lobbyist.

#### Long-Awaited U.S. House Privacy Bill Unveiled

Several U.S. lawmakers introduced a long-awaited privacy bill Wednesday that would allow U.S. businesses to share information about customers who have not explicitly forbidden them to do so.

More than a year in the making, the privacy bill unveiled in the House of Representatives differs from a competing bill making its way through the Senate that would require businesses to get consumers' explicit permission before sharing sensitive information such as income level, religious affiliation or political interests.

U.S. Rep. Cliff Stearns' bill would instead leave companies free to share customer profiles unless customers specifically forbade them.

The bill would cover transactions both on the Internet and in the "offline" world, and would override state laws that place more restrictions on commercial use of personal information. Sponsors said the bill would establish basic privacy protections for consumers while minimizing the

impact on business.

Stearns, a Florida Republican whose consumer-protection subcommittee held six hearings on privacy last year, said the free flow of consumer data has been a cornerstone of the modern information-based economy.

"The underlying principle that anchors this bill is, 'do no harm,' " he said.

Consumers would have no right to sue if their privacy was violated. Enforcement would be left in the hands of the Federal Trade Commission, which usually does not impose fines on a first offense.

Companies submitting to a self-regulatory privacy regime such as TRUSTe or BBBOnline would enjoy protection from FTC actions.

While lawmakers have introduced dozens of privacy bills in the House since the beginning of last year, none has attracted as much support as Stearns' measure. The bill has lined up 22 co-sponsors from both sides of the aisle, among them Rep. Billy Tauzin, the Louisiana Republican who chairs the House Energy and Commerce Committee.

Rep. Rick Boucher, a Virginia Democrat, said businesses would be free to set more restrictive privacy practices on their own as a way to market themselves.

"I'll predict a much greater level of Internet usage with these privacy policies in place," Boucher said.

Initial reaction to the bill was mixed.

A group of business leaders from high-tech firms said the bill struck the right balance between consumers and businesses, while the U.S. Chamber of Commerce said it was not needed because businesses could handle privacy concerns on their own.

Privacy advocates said the bill was a step backward, especially by not providing extra protection for sensitive information.

"Americans care about sensitive information. This bill does not address those issues," said Ari Schwartz, a senior policy analyst at the Center for Democracy and Technology.

#### Rejected 'Virtual' Child-Porn Law Finds New Life

A recently rejected ban on "virtual" child pornography found new life on Thursday when a House of Representatives subcommittee approved a rewritten version that supporters claim would not infringe free-speech rights.

Drafted by the Justice Department, the bill would tighten the definition of child pornography to avoid constitutional questions raised by a previous law that the Supreme Court struck down last month because it was too broadly written.

The House Judiciary subcommittee on crime also approved a bill that would make it easier to prosecute "sex tourists" who travel abroad to have sex with children.

The child-pornography bill, sponsored by Texas Republican Lamar Smith, would not criminalize simulated sex acts between adults or older teens, such as those depicted in movies like "American Beauty," or created with image-manipulating software.

But defendants in child-pornography cases would be required to prove that the images in question were entirely computer-generated and not a depiction of actual events. Pornography involving prepubescent children would be outlawed entirely, whether it was "virtual" or not.

The subcommittee removed a provision that would have created a database of child pornography, after Georgia Republican Rep. Bob Barr said it would violate the privacy of victims.

The bill has been given priority status by House Republican leaders, who hope to pass it out of the House by the end of the month.

Smith said the Supreme Court's decision makes child-porn prosecutions difficult because defendants can argue that evidence is entirely computer-generated.

"This decision will have a devastating effect on the prosecution of child pornographers who are often child molesters," Smith said.

But Virginia Democratic Rep. Bobby Scott said the rewritten bill would put an unfair burden on defendants by requiring them to prove they were not guilty, unlike most cases which place the burden of proof on the prosecutor.

"If you don't know whether the image before you is of a real child or not, you haven't proved your case beyond a reasonable doubt," Scott said.

Scott also objected to a bill that takes aim at "sex tourists" who travel abroad to have sex with children. The bill, which passed on a voice vote, is written so broadly that it could criminalize U.S. citizens who travel from one state to another to gamble, he said.

House leaders have made the child-pornography bill a priority and hope to bring it to a floor vote on the week of May 20, said an aide to House Majority Leader Dick Armey.

"We want to move sooner rather than later to respond to the April 16 court decision," said Richard Diamond, an Armey aide.

The full Judiciary Committee plans to take up the bill next week, a committee spokesman said.

#### Apple Instant Messenger to Work With AOL

Apple Computer Inc. on Monday previewed a bundle of free programs tied to an upgrade of its operating system, including an instant messaging application-- iChat -- that will work with America Online's popular Internet communication program.

The iChat program will link with the AOL instant messaging platform and feature a new technology called Rendezvous designed to let computers on a home network find each other and share files, such as photographs, Apple

said.

Apple Chief Executive Steve Jobs said the program set a milestone for cooperation between AOL, which holds the market-leading position in instant-messaging, and an outside company. "It is the first time that AOL let anybody in under the tent," Jobs said.

Under the iChat program, one computer could, for example, play music files on another after the second automatically appeared as an icon on the first, the company said.

The computer maker, which was showing off new software at its annual developers conference, also introduced a new version of its QuickTime media player, and mail and address-book software that it plans to release with an upgrade to its OS X operating system due late this summer.

Apple has struggled to broaden its appeal beyond the hard core of approximately 5 percent of U.S. personal computer buyers who own Macintoshes with its new operating system and free applications.

Aiming to make the Mac the "hub of a digital lifestyle" that can manage digital music, video and photos, the company has rolled out a slew of free applications, such as iTunes jukebox and iPhoto digital photo software that run on OS X.

Jobs, known for his skills as a corporate showman, ceremonially laid the previous version of Apple's operating system, OS 9, to rest in a casket that rose up out of the stage as billows of smoke emerged, prompting hoots of laughter from the audience of programmers.

The next series of free programs from Apple will only work with the new version of OS X, code-named Jaguar.

"It helps customers to move up to the latest and greatest operating system," Philip Schiller, Apple's worldwide product manager, said in an interview at the conference.

Apple also showed off a new Address book and said it would launch a powerful new server, in an industrial rack-mounting configuration, on May 14.

### Red Hat Releases Version 7.3

Red Hat released a new version of its Linux operating system Monday that is aimed at educators and small businesses.

Red Hat Linux version 7.3 adds to the company's current open-source operating system offerings with new features that include personal firewall configuration, and installation and video-conferencing software.

The new version also includes Web and telephone access to experts and the Red Hat Network--an automated Internet service for managing Red Hat Linux systems.

The company, which sells services and support for the ever-evolving Linux OS, said its new software also includes Mozilla, an open-source Web browser technology that competes with Microsoft's Internet Explorer, and

an Apache 1.3 Web server.

Red Hat has been homing in on the server market and targeting larger businesses with Apache. GNOME (GNU Network Object Model Environment) video-conferencing software, MrProjects project management software and PostgreSQL database management are some of the version's other features.

The new software will be available on May 15, and orders are being taken as of Monday. A version for nonbusiness consumers will retail for \$59.95, which includes 30 days of Red Hat Network service and Web-based support. A professional version for small business will sell for of \$199.95, which adds a systems administrator's CD, 90 days of Red Hat Network service, and 60-days of Web-based and telephone support.

Red Hat will also upgrade customers by offering a \$20 discount on Red Hat Linux 7.3 Professional, and \$10 off Red Hat Linux 7.3 Personal.

### States' Slipup Gives Microsoft Leverage

Microsoft's decision to withdraw Chief Executive Steve Ballmer and other witnesses from testifying in the ongoing antitrust trial may be a move to exploit a potentially costly mistake made by the litigating states' attorneys.

The software giant appears to be using the error--a failure to get certain pretrial depositions entered into the trial record--to limit the amount of new evidence the states can introduce in the nearly 4-year-old case, legal experts say.

On Friday, Microsoft whisked Ballmer off its witness list, along with OEM (original equipment manufacturer) account manager Gayle Brock. Earlier in the week, Microsoft chopped another eight people from its list.

The states could have used the testimony of at least three witnesses - Ballmer, Brock and Richard Fade, the Microsoft executive in charge of relations with OEMs--to, among other things, attack the legitimacy of a separate settlement the company made with the Justice Department and nine of 18 states.

Nine states and the District of Columbia are pursuing stiffer sanctions against Microsoft than those contained in the November settlement deal, which U.S. District Judge Colleen Kollar-Kotelly has yet to approve.

One option before the judge is to seek a single solution, either approving the Justice Department settlement and dismissing the states' claims, or rejecting the settlement and imposing a court-ordered remedy. She also can approve the settlement and impose a separate remedy, either the one proposed by the litigating states or another that she drafts. In December, Microsoft submitted the Justice Department settlement as its proposed remedy. Kollar-Kotelly's unusual number of choices is one reason why the blocking of new evidence could be so important.

The main trial concluded in September 1999, with U.S. District Judge Thomas Penfield Jackson later ruling Microsoft violated two sections of the Sherman Antitrust Act. He initially ordered Microsoft to be broken into separate operating systems and software applications companies. But in its unanimous ruling that upheld about a dozen separate antitrust

violations against Microsoft, the U.S. Court of Appeals for the District of Columbia Circuit threw out the remedy for technical reasons. The proceeding now under way before Kollar-Kotelly is to determine a new remedy to Microsoft's antitrust violations.

Typically, the remedy proceeding would not be the place to introduce much new evidence. The proceeding, which enters its eighth week Monday, follows the conclusion of the trial by about two and a half years, and Jackson's ruling by more than two years.

Throughout its presentation of witnesses and cross-examination of Microsoft, the litigating states have attempted to show that the company continues to pursue business and technical tactics in new so-called middleware markets similar to those that led to two adverse court rulings. Because the remedy proceeding is not a trial, new evidence ordinarily can be introduced only while cross-examining a witness, and it must be pertinent to direct testimony.

In a critical legal faux pas, the litigating states missed the deadline for requesting that certain Microsoft pretrial depositions be introduced into evidence, and now have little recourse in that regard. In early April, Kollar-Kotelly refused to admit the requested depositions.

"Typically you would want to get the depositions into the record, because that's the best way to make sure the witnesses show up in court," said Rich Gray, a Menlo Park, Calif.-based lawyer closely following the trial. "This opened the door for Microsoft."

If a witness doesn't testify, portions of taped depositions could have been shown in court and some new documents potentially introduced with them, although the states would not have had the advantage of directly cross-examining the witness.

"Microsoft has effectively closed the door on the states," Gray said. "Because these witnesses can't be subpoenaed, there really is no other way to get the testimony to be heard in court."

Last Tuesday, the states' attorneys made an impassioned plea to introduce 14 documents--later knocked down to 12--that would have been used during the cross-examination of Fade. Some of them supposedly further bolstered state claims that Microsoft is using a provision of the Justice Department settlement to force new, prohibitive licensing agreements on PC makers. Had Brock testified, the states might have been able to use anywhere from four to eight of the documents then.

"The judge is more likely to get overturned on appeal for keeping evidence out than for letting it in," said Andy Gavil, an antitrust lawyer with Howard University's School of Law. But that doesn't mean Kollar-Kotelly will ultimately admit the documents, he added.

Fade's pretrial deposition did not go well for Microsoft, so the company may have good reason to keep him off the witness stand. Among other things, the executive conceded that the new uniform licensing provision of the settlement would raise PC makers' cost for Windows by about \$4 per copy. Depending on volume and lucrative marketing development discounts, PC makers pay anywhere from \$65 to \$90 per copy of Windows, computer manufacturer sources said. According to court records, Hewlett-Packard (news - web sites) and Sony complained about new, onerous licensing agreements. Later, a Gateway executive testified on behalf of the states.

The issue of how Microsoft treats its customers is perhaps central to the case and any eventual remedy, Gavil said.

The trial was really "about channels of distribution," he said. "OEMs are the best way to get software to the customer. If you can convince OEMs to alter their packaging, the implications are self-evident." Microsoft's "chokehold is over OEMs. They're the customers."

Ballmer's testimony could have raised other problems for Microsoft. The software titan may have pulled Ballmer over concerns the states would use his testimony to introduce e-mail or other evidence that would either call the company's conduct into question or expose the Justice Department settlement to further scrutiny, legal experts say. Ballmer had been expected to testify about how the company would follow the Justice Department settlement.

"There's nothing more the states would like than to get (a Microsoft executive) to compare and contrast the proposed settlement with the states' remedy," Gray said. The cross-examination by states' attorneys could have put Ballmer in the position of defending the settlement versus the states' proposed remedy.

The states had tried for this when Microsoft Chairman Bill Gates spent three days on the witness stand two weeks ago. But Gates' written testimony did not touch upon the Justice Department settlement, leaving little room to explore the matter during cross-examination. Microsoft's chairman aggressively attacked the states' proposal, which he called ambiguous and "impossible" to follow. Gates also fiercely criticized the states' definition of so-called middleware as overly broad.

Stuart Madnick, an information technology professor at the Massachusetts Institute of Technology, made a similar claim in testimony last week, but backpedaled during cross-examination.

When asked if the middleware definitions put forth in Microsoft's remedy proposal--the same as the Justice Department settlement--are ambiguous, he agreed that they are.

"I believe so," Madnick testified. "Based upon my reading of it at this moment. I somehow think there is something missing, but I can't spot it right at this moment."

States' attorneys could have probed Ballmer on this and other issues had he testified.

Microsoft made Ballmer's deposition and that of Jim Allchin, the senior executive overseeing Windows, public in March, after Kollar-Kotelly granted media access to them. Allchin takes the witness stand this week.

Microsoft may have another reason for pulling back Ballmer and other witnesses: confidence that the litigating states have not done as well in court as they could have.

"We made decisions on who would testify in the case based on the reviewed progress we made with our witnesses, as well as an assessment of the states' witnesses and what we believe are shortcomings in the states' case," Microsoft spokesman Jim Desler said. "We feel good about the record we've established and our success raising serious questions about the states' remedy proposals."



## Microsoft Judge Wants to See 'Modular' Windows

The federal judge overseeing the Microsoft Corp. antitrust case said on Tuesday that she wants to see a version of the Windows operating system that has removable features.

Over the objections of Microsoft, U.S. District Judge Colleen Kollar-Kotelly said she would allow nine states seeking stiff sanctions against the company to have a computer expert demonstrate a version of Windows he has developed that can be customized.

Kollar-Kotelly scheduled the presentation for May 15.

A modular version of Windows is a key demand of the nine states who have rejected a proposed settlement of the four-year-old case as too weak.

The states say a modular version of Windows would level the playing field for non-Microsoft software trying to compete with Microsoft's continued practice of attaching features to the operating system like its Web browser and multimedia player.

But the software giant says it would be technically impossible to offer multiple versions of Windows and would create havoc for consumers and the computer industry.

The non-settling states told the judge that Virginia-based computer testing consultant, James Bach, had built his modular version of Windows using Microsoft's own technology.

Bach, who has worked as a contractor for Microsoft, had created the new version using Windows XP Embedded, a commercial version of Windows designed for specialty devices such as cash registers and automatic teller machines.

Bach will testify that his modular version of Windows was "robust and reliable," Kollar-Kotelly said, citing the states' submission.

The states named Bach as one of two witnesses they want to call at the end of the case to rebut some of Microsoft's arguments.

Microsoft attorneys strongly objected, saying the states should have brought Bach into the case earlier when they were presenting their initial case.

Kollar-Kotelly agreed in part. She said the states' attorneys hired Bach in February, but had made a "tactical decision" not to call him earlier in the case.

But the judge said it was important to hear from someone who had actually "sat down and tried" to create a version of Windows that could be customized.

"I'm going to allow Mr. Bach's testimony primarily for the reason that I think the information should be presented to the court," Kollar-Kotelly said. "I should have it."

## States Get Boost in Microsoft Trial

The federal judge hearing the Microsoft antitrust case gave new hope to states suing the company when she agreed Tuesday to let them present more information on their most controversial penalty proposal.

The nine states want Microsoft to release a version of its Windows operating system that will permit computer manufacturers to replace Microsoft features with competing products.

Lawyers for the states asked U.S. District Judge Colleen Kollar-Kotelly to allow them to call an extra witness to show that the "modular" Windows is feasible, despite Microsoft's objections.

The states finished their case in April, and Kollar-Kotelly was reluctant to let the states add on another witness. She called the request an ill-conceived "tactical decision."

Nevertheless, she decided to let the witness, independent software tester James Bach of Front Royal, Va.

"I think that the information should be submitted to the court, that I should have it," Kollar-Kotelly said.

States' lawyer Steven Kuney said Bach will argue that Microsoft's XP Embedded operating system shows that Microsoft can make a modular version of Windows. XP Embedded is designed for small, limited function devices like cash registers and automatic teller machines.

Many Microsoft witnesses, including Chairman Bill Gates, say that Microsoft is unable to make a modular Windows because the different features - like the Internet browser and media player - are dependent on each other.

Microsoft earlier specifically targeted the penalty proposal in a motion that asked the judge to dismiss it. She has not ruled on the request.

Bach's testimony, which includes a video, will come after Microsoft rests its case next week.

Top Microsoft executive Jim Allchin testified Tuesday that hackers, virus writers and software pirates could run rampant if Microsoft disclosed technical information as requested by the states.

Allchin, who oversees Windows, said such disclosures "would make it easier for hackers to break into computer networks, for malicious individuals or organizations to spread destructive computer viruses and for unethical people to pirate" Microsoft's flagship software.

The states want the disclosures so competitors can make their software work as well with Windows as Microsoft's own products. The overwhelming market share of Windows gives Microsoft a leg up on other software makers, they say.

A lawyer for the states, Kevin Hodges, pointed out that many of the most destructive computer attacks in recent years have targeted Microsoft products regardless of whether Microsoft disclosed particular technical data.

"I guess it's a matter of how hard you make it," Allchin replied. "We have

to work on our reputation for security in the marketplace."

The federal antitrust settlement with Microsoft exempts the company from disclosing information that may compromise security. The states' proposals have no such exemption.

Critics say Microsoft could use that exemption to keep from having to disclose a much broader swath of information for competitive gain.

Hodges pointed to an interview with Roger Needham, the head of Microsoft's research laboratory in England, who said that the exemption is only meant to protect specific cryptographic keys.

Allchin said he disagrees with Needham. Needham was named as a possible Microsoft witness, but was removed from the list last week.

Allchin confined his testimony to just a few issues, frustrating lawyers for the states who could not introduce other matters because of cross-examination rules. They wanted to raise several internal Microsoft memos related to Microsoft's alleged wrongdoing.

Allchin is the last Microsoft official scheduled to testify in the eight-week-old case. Two experts, an economist and a computer scientist are still remaining in Microsoft's defense.

The original judge in the antitrust case ordered Microsoft broken into two companies after concluding that it illegally stifled competitors. An appeals court upheld many of the violations but reversed the breakup order and appointed Kollar-Kotelly to determine a new punishment.

#### Judge Bruises Microsoft - Allows XP Embedded Demo

A federal judge has granted the nine non-settling states in the Microsoft antitrust trial the right to demonstrate a modular version of the Windows operating system that functions without a Web browser, media player and other supporting software.

Over Microsoft's protests, U.S. District Judge Colleen Kollar-Kotelly said Tuesday that she will allow computer testing consultant James Bach to testify in support of the states' contention that a modular, consumer-oriented version of Windows is not an impossibility, as Microsoft claims it is.

Bach will seek to demonstrate that he can build a functioning Windows operating system using Windows XP Embedded software, commonly used to run such devices as cash registers and ATM machines.

Judge Kollar-Kotelly noted that this information is important to the court in its decision-making process, and that the subject is in line with what reasonably could be expected in rebuttal testimony.

Microsoft chairman Bill Gates told the court last month that while Windows XP Embedded might allow consumers to choose their own Web browser and media player, it does not function in the same fashion as the home and professional versions of Windows XP.

But in allowing Bach's testimony, Judge Kollar-Kotelly said Microsoft representatives had "not testified that they tried what Mr. Bach has done and whether that was successful or not."

Tam Ormiston, Iowa deputy attorney general, told NewsFactor that the court's agreement to hear Bach's testimony is "significant."

"We believe that this is an important feature of the remedy, and that it can be done technologically and from an engineering perspective," said Ormiston, who coordinates the Microsoft case on behalf of the states.

A version of Windows free of supporting software is a cornerstone of the remedy proposed by the nine non-settling states and the District of Columbia, which rejected an earlier U.S. Department of Justice settlement with the software giant.

Peter Kastner, chief research officer at the Aberdeen Group, told NewsFactor that XP Embedded was not designed to support new applications or functionality.

"It's not like you can punch a button and add a word processor or a media player to an XP Embedded environment, unless you get back to 'regenerating' the operating system -- a techie term that home users would come to hate. There's just no point to it," Kastner said.

He explained that XP Embedded technology is intended to compete with Linux in non-computer consumer electronic devices.

"It's a different market -- an operating system that is designed for another purpose," he noted.

But Ormiston explained that the states' goal in submitting Bach's Windows version is to demonstrate that the main Windows XP operating system can be offered in a modular fashion, not that Windows XP Embedded should be used in such a way.

"This is done over the course of a very short time and with our modest resources. Certainly we think Microsoft, with its engineering capacity, can accomplish goals the court sets and that consumers and OEMs desire," Ormiston said.

#### States Cancel Windows Demo in Microsoft Case

Nine states seeking strong antitrust sanctions against Microsoft Corp. on Thursday abruptly canceled plans to demonstrate the feasibility of one of their key demands -- a version of the Windows operating system with removable features.

The states said they had made the decision to avoid prolonging the case after Microsoft said it needed an indefinite period of time to prepare.

U.S. District Judge Colleen Kollar-Koteely had also expressed annoyance at the states' late introduction of voluminous supporting documents.

"Our sense is that she's ready for this to conclude," said Tom Greene, an assistant attorney general for California.

A modular version of Windows is one of the key demands of the nine states that have rejected a proposed settlement of the landmark case.

Greene said the states' concluded that the demonstration was unnecessary because Microsoft's witnesses had never backed up the company's assertion that it was impossible to create a modular version of the operating system.

"Our sense is we're in as good a shape as we're going to be," Greene told reporter outside of court.

The states received an angry rebuke from Kollar-Kotelly earlier on Thursday for dumping documents on Microsoft at the last minute.

"This is absolutely astounding," she told the states' legal team. "I cannot tell you I am happy about the way this has been done."

Microsoft attorney Steve Holley had told Kollar-Kotelly it would be "an extensive enterprise" for the company's lawyers to prepare a response. "We're not talking about a matter of hours or even a matter of days," Holley said.

Earlier this week Kollar-Kotelly had expressed interest in seeing the version of Windows developed by computer testing expert James Bach, in what had seemed like a small victory for the states.

The states say a version of Windows in which some features can be removed would level the competitive playing field for non-Microsoft software.

An appeals court last year upheld trial court findings that Microsoft had illegally maintained its Windows monopoly by tactics that included commingling the operating system with its Internet Explorer program to fend off rival Netscape.

#### States Attack Microsoft Expert as Case Nears End

A computer expert testifying for Microsoft Corp. conceded on Friday that it would be possible to remove features from the company's Windows operating system even if technically difficult.

University of Colorado computer science professor John Bennett had testified on Thursday that a version of Windows with removable features was "technically infeasible."

Questioned by an attorney for nine states seeking stiff antitrust sanctions against the software giant, Bennett said anything was possible with software.

"It's a question of the degree of difficulty and the amount of work that would be required," said Bennett, Microsoft's last witness at the hearings, now in their eighth week.

The states say a modular version of Windows, allowing features like the Internet browser and media player to be removed, would help level the competitive playing field for non-Microsoft software.

But Microsoft has insisted that Windows is highly dependent on all its

parts to work properly.

Under a proposed settlement reached with the U.S. Justice Department in November, Microsoft would let computer makers hide desktop icons for some Windows features.

Bennett was the last of more than 30 witnesses who have testified before U.S. District Judge Colleen Kollar-Kotelly during 32 days of hearings into the demands of the states.

The judge is also weighing whether to approve the proposed settlement that the nine dissenting states say is too weak to prevent future antitrust violations.

The states on Thursday canceled plans to demonstrate a modular version of Windows after it became clear they had annoyed the judge by introducing the material so late in the case that it would vastly lengthen the proceedings.

A federal appeals court last June upheld the original trial court's finding that Microsoft illegally maintained its Windows monopoly through acts that included commingling its Internet Explorer code with Windows to fend off Netscape.

But the appellate judges rejected Jackson's breakup order and sent the case back to a new judge, Kollar-Kotelly, to consider the most appropriate remedy.

Bennett had said in written testimony that the states' proposal for a modular operating system would exponentially increase the cost of testing and supporting Windows.

States attorney Steve Kuney countered by suggesting Bennett was exaggerating the impact of the states' proposals.

In particular, Kuney challenged Bennett's claim that the states would force Microsoft to make almost every piece of Windows removable.

Bennett acknowledged that it would be possible to remove software features like the Internet Explorer browser from Windows and replace them with other companies' software.

"From the (computer) user's perspective it's relatively straightforward to replace the browser," Bennett said. But added that the browser had many complicated parts "that would have to be replicated."

"Are you testifying it would be technically infeasible?" Kuney asked.

"No, I'm saying it would have to be done," Bennett replied.

#### Judge Rejects Motion To Dismiss in Digital Copyright Case

A federal judge on Wednesday denied a Russian software vendor's motion to dismiss criminal charges that allege the company sells a product designed to break anti-copying technology. Such a practice would represent a violation of the Digital Millennium Copyright Act (DMCA).

Attorneys for ElcomSoft had argued that the law is vague and undermines legitimate copying that is legally protected under "fair use" tenets. But U.S. District Judge Ronald Whyte was not convinced and found that the DMCA does not breach the software maker's due process.

The plain meaning of the statute, said Whyte, is to completely ban circumvention tools, because Congress has assumed that "most uses" of the tools would be for unlawful infringement rather than fair use.

ElcomSoft's attorneys also argued that the DMCA violates software vendors' free-speech rights. While Whyte ruled that the computer program qualifies as speech -- rejecting the government's argument that software is not speech -- he also found that the First Amendment is satisfied based on the government's intent to control the software's function rather than content.

"Congress was concerned with promoting electronic commerce while protecting the rights of copyright owners, particularly in the digital age where near-exact copies of protected works can be made at virtually no cost and distributed instantaneously on a worldwide basis," he wrote in his 35-page decision.

Whyte's decision is consistent with other court rulings upholding the new law. It sets the stage for attorneys to try what is believed to be the first criminal prosecution under the controversial legislation.

The DMCA was enacted in 1998 as a compromise between copyright owners and telecommunications companies seeking freedom from liability connected to online piracy. Since then, it has sparked a battle between copyright holders and those seeking to copy and distribute books, songs and music over the Internet.

The law deems illegal tools that crack encryption and other anti-copying controls. Whyte ruled that ElcomSoft's product, which is aimed at breaking copyright protections built into Adobe's eBook software, falls into that category.

Lawyers and other free speech proponents said they are "extremely disappointed" with Whyte's decision. The Electronic Frontier Foundation said the ruling could weaken consumers' rights to fair use of legally copyrighted works.

"We had hoped the judge would see the constitutional problems here," EFF legal director Cindy Cohn told the E-Commerce Times. "Perhaps we are just a bit ahead of our time. The problems that the DMCA has caused are just beginning to reach public consciousness."

The EFF filed a court brief on behalf of ElcomSoft and published a white paper listing a collection of unintended consequences related to the DMCA, including magazine censorship and fear of a backlash in the scientific research community.

"This is a bad law," Cohn said. "It's causing a lot of problems and is going to continue to cause a lot of problems as people begin to see how their rights have been limited. Consumers are going to get angry."

Mike Godwin, a Center for Democracy & Technology policy fellow, told the E-Commerce Times that he is most concerned about jurisdictional issues in the ElcomSoft case.

Godwin pointed to a recent case in which Yahoo, an American company, was hauled into a French court for posting content related to Nazi memorabilia on a U.S. Web site targeting English-speaking viewers.

"We've tried to put limits on the extent to which French courts can impose penalties on American companies that are not, except incidentally, connected to France," he said. "And here we have the ElcomSoft case, where our government is prosecuting someone whose connection to the United States is fairly slim. How do you apply geographic rules in a global medium like the Internet?"

The U.S. Attorney's office declined to comment on the case. ElcomSoft attorney Joe Burton could not immediately be reached for comment.

The trial schedule for the case will be determined at a May 20th hearing.

=~::~~==

Atari Online News, Etc. is a weekly publication covering the entire Atari community. Reprint permission is granted, unless otherwise noted at the beginning of any article, to Atari user groups and not for profit publications only under the following terms: articles must remain unedited and include the issue number and author at the top of each article reprinted. Other reprints granted upon approval of request. Send requests to: [dpj@atarinews.org](mailto:dpj@atarinews.org)

No issue of Atari Online News, Etc. may be included on any commercial media, nor uploaded or transmitted to any commercial online service or internet site, in whole or in part, by any agent or means, without the expressed consent or permission from the Publisher or Editor of Atari Online News, Etc.

Opinions presented herein are those of the individual authors and do not necessarily reflect those of the staff, or of the publishers. All material herein is believed to be accurate at the time of publishing.